

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA
Montana Thirteenth Judicial District Court, County of Yellowstone

STATE OF MONTANA,)	
)	
Plaintiff,)	
)	CAUSE NO. DC-17-410
-vs-)	
)	DECISION
THOMAS DAVID HERMAN,)	
)	
Defendant.)	

On August 22, 2017, for the offense of Count I: Driving a Motor Vehicle Under the Influence of Alcohol or Drugs (felony), the District Court sentenced the Defendant to ten (10) years in the Montana State Prison, to run consecutively to DC 16-542 and DC 17-232. Defendant was ordered to pay a fine of \$5,000. For Count II: Criminal Contempt, the Defendant was sentenced to 30 days in the Yellowstone County Detention Facility to run concurrently with Count I. Defendant was designated a Persistent Felony Offender. Defendant was granted credit for time served from April 9, 2017 through August 22, 2017 with credit towards his fine at a rate of \$95 a day.

On February 22, 2018, Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). Defendant appeared by videoconferencing from Crossroads Correctional Center and was represented by Brent Getty of the Office of the State Public Defender. The State was not represented.

Before hearing the Application, Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. Defendant was further advised that there is no appeal from a decision of the Division. Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 22nd day of February, 2018.

DATED this 9th day of March, 2018.

SENTENCE REVIEW DIVISION

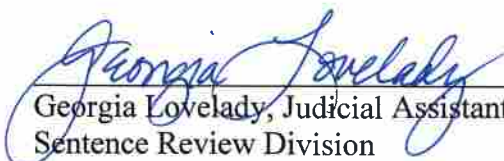

Hon. Kathy Seeley, Chairperson


Hon. Brenda Gilbert, Member


Hon. Dan Wilson, Member

Copies mailed this 13th day
of March, 2018, to:

Clerk of District Court (Original)
Thomas David Herman #44743, Defendant (2)
Hon. Mary Jane Knisely
Brent Getty, Defense Counsel
Julie Elaine Mees, Esq.
Board of Pardons and Parole
MSP - Records Dept.


Georgia Lovelady, Judicial Assistant
Sentence Review Division